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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,850	03/25/2004	Steven J. Miener	BO1 - 0171US	6671

60483 7590 01/10/2007  
LEE & HAYES, PLLC  
421 W. RIVERSIDE AVE.  
SUITE 500  
SPOKANE, WA 99201

EXAMINER
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ELDRED, JOHN W

ART UNIT	PAPER NUMBER
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3641

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	01/10/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/10/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhpto@leehayes.com

**Office Action Summary**

Application No.

10/808,850

Applicant(s)

MIENER, STEVEN J.

Examiner

J. Woodrow Eldred

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 14-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 33-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08232004</u>  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. Claims 14-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 10-20-06.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-7, 11, 33-36, and 38-40 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Daume (6,943,299).

Daume discloses a clamp, with all claimed elements, for clamping an electrically conductive structure. Metal element 10 corresponds to the claimed strap; rubber elastic material (see column 6, line 22) 26, 28, 14, 16, 18, 20 corresponds to the claimed cushion; contact element 22, which is coupled to the elastic material and in electrical contact with the metal strap, corresponds to the claimed conductive material; and the “braid” of the connection element is considered to read over the “stitching” language in the claims.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8-10 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daume (6,943,299) in view of Gazda et al (3,916,488).

Daume discloses a clamp, with most claimed elements, for clamping an electrically conductive structure. Metal element 10 corresponds to the claimed strap; rubber elastic material (see column 6, line 22) 26, 28, 14, 16, 18, 20 corresponds to the claimed cushion; contact element 22, which is coupled to the elastic material and in electrical contact with the metal strap, corresponds to the claimed conductive material; and the "braid" of the connection element is considered to read over the "stitching" language in the claims. Daume fails to disclose conductive metal material impregnated in the cushion or the clamp in a "P-shape". Gazda et al teach that it is known to have conductive material impregnated in a clamp cushion (see column 10, lines 50-55) and to form the clamp in a "P-shape" (see Figure 15). Motivation to combine is the mere substitution of known conductive elements within a clamp cushion to perform the same function and to make a minor shape change which does not affect the functioning of the clamp but could provide easier placement in some situations since the connection area would be offset relative to the connection area of Daume. To employ the teachings of Gazda et al on the clamp of Daume and have metal impregnated in the cushion and a "P-shape" for the clamp is considered to have been obvious to one having ordinary skill in the art.

6. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daume (6,943,299) in view of Matsui (4,609,171).

Daume discloses a clamp, with most claimed elements, for clamping an electrically conductive structure. Metal element 10 corresponds to the claimed strap; rubber elastic material (see column 6, line 22) 26, 28, 14, 16, 18, 20 corresponds to the claimed cushion; contact element 22, which is coupled to the elastic material and in electrical contact with the metal strap, corresponds to the claimed conductive material; and the "braid" of the connection element is considered to read over the "stitching" language in the claims. Daume fails to disclose the clamp

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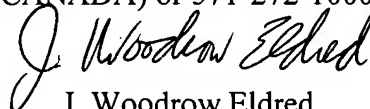
in a "D-shape". Matsui teaches that it is known to form a clamp in a "D-shape" (see Figure 2). Motivation to combine is the mere substitution a minor shape change that does not affect the functioning of the clamp but could provide easier placement in some situations and allow easier mounting of the clamp to another surface by the base 34. To employ the teachings of Matsui on the clamp of Daume and have a "D-shape" for the clamp is considered to have been obvious to one having ordinary skill in the art.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Antila and Harwath are considered to be of interest since they disclose conductive clamps.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Woodrow Eldred whose telephone number is 571-272-6901. The examiner can normally be reached on Monday to Thursday, from 8:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



J. Woodrow Eldred  
Primary Examiner  
Art Unit 3641

JWE